



MISSOURI PROSECUTOR

JULY 2005

Volume 12, Issue 7

CASELAW TOPICS

MISSOURI SUPREME COURT

State v. Mark Anthony Gill - Death Penalty

MISSOURI EASTERN DISTRICT

Willis Bailey v. State - Deliberation – Unborn Child

State v. George Estes - Uncharged Conduct – Complete Picture

State v. Ronnie Reeder - Rape Shield – Prospective Application

MISSOURI WESTERN DISTRICT

State v. Anthony D. Driskell - Possession of Controlled Substances – Constructive Possession

State v. William Weaver - Sentencing

State v. James Joe Carruth - Business Records - Fingerprints

State v. Donald L. Biggs, Sr. - Accomplice Liability/Closing Arguments

State v. James E. Lybarger - Robbery in the Second Degree – Forcibly Steal

MISSOURI SOUTHERN DISTRICT

State v. Jeremiah E. Pittman - Tampering with a Witness

State v. Bobby Eugene Carroll, Defendant and A-Advanced Bail Bonds, Appellant - Bail Bonds

State v. Clayton D. Price - Child Abuse – Expert Testimony

State v. Jibril Bin-Amir Walton - Armed Criminal Action – Mental State

INSIDE THIS ISSUE:

Announcements	1-2
Caselaw Update	3-5
Prosecutor Profile— Monty Platz	6
Training Calendar	7-8
MOPS Trial School Agenda & Registration	9-10
MOPS Fall Conference Agenda & Registration	11-12
MAPA Golf Tournament Registration	13
DOR Law Enforcement Seminar Registration	14-15
Dumb Criminals	16

NOTES & NEWS

MOPS FALL CONFERENCE REGISTRATION UNDERWAY

The registrations for the Fall Statewide Conference have been sent to all offices. The Conference will be held August 31-September 2, at Tan-Tar-A resort. We will be highlighting some new topics with Thursdays program focusing on forensics, with such topics as forensic anthropology, bone trauma, and the Mediocolegal Death Investigator, and the CSI effect on Jurors. Other topics include the Child Advocacy Centers, the Sentencing Advisory Commission, and of course, the Case Law Update and Appellate Issues. Please remember that the cut-off for room reservations is August 1.

A conference agenda and registration form can be found on **pages 11-12** of this newsletter.



MOPS WEBSITE

The MOPs office has a new website at <http://www.mops.mo.gov>.

Conference information and resources can be found, in addition to helpful links to prosecution-related sites. Please be sure to visit the website and give us any input.



MISSOURI DEPARTMENT OF REVENUE 2005 LAW ENFORCEMENT SEMINARS



During July, August, and September 2005, the Missouri Department of Revenue will conduct seminars for all law enforcement personnel. Judges, prosecutors, full time circuit and municipal court personnel are also welcome to attend.

The seminars will include updates on recent case law, legislative updates, commercial driver license and lawful presence updates, and a presentation regarding the MSHP Driving While Intoxicated Tracking System (DWITS).

Seminars will be conducted at Missouri State Highway Patrol (MSHP) Troop Headquarters throughout the state (schedule follows). Missouri Bar CLE approval and POST certification is pending.

A registration form can be found on **pages 14-15** of this newsletter. Please call (573) 751-2580 if you have any questions.

SENATE PANEL RESTORES ANTI-METH FUNDING

Post Dispatch Washington Bureau—Philip Dine
Tuesday, July 19, 2005

Following an outcry from law enforcement officials in Missouri and around the Midwest, a Senate panel voted unanimously Tuesday to restore federal funding to help local drug task forces fight the growing methamphetamine problem.

The action was led by Sen. Christopher "Kit" Bond, R-Mo., chairman of the appropriations subcommittee that oversees a program to help combat drugs in areas of high usage. Senators set a funding level of \$227 million. The White House wants to cut the funding by 56 percent, to \$100 million.

The Senate subcommittee's vote follows similar action a month ago by the House, and makes it highly likely that when the two chambers meet to craft a single bill the full amount will be restored.

The administration has criticized the program as too broad and no longer targeted toward specific areas of high drug use. But after Tuesday's vote, a White House spokesman signaled that the administration might accept the restoration of funding.

<http://www.stltoday.com/stltoday/emaif.nsf/Popup?ReadForm&db=stltoday%5Cnews%5Cstories.nsf&docid=40F1592F362037E986257044001A18E9>



BASIC TRIAL TECHNIQUES FOR PROSECUTORS

The MOPS office has received a shipment of monographs from the National Traffic Law Center entitled "Basic Trial Techniques for Prosecutors." This is a resource, intended mainly for new prosecutors, which deals with the prosecution of a DWI case. If you would like a copy or two for your office, please contact Susan at the MOPS office.

This monograph is designed to assist you to make appropriate, informed decisions, by providing differing perspectives, examples and tips while prosecuting DUI cases.

Please note that this monograph is also available for download from the NTLC website at
http://www.ndaa-apri.org/pdf/basic_trial_techniques_05.pdf



The Taney County Prosecuting Attorney's Office has an immediate opening for an Assistant Prosecuting Attorney.

Experience preferred, but will consider others. Salary commensurate with experience—\$37,500 to \$65,000.

Fax resume or letter to the attention of Rodney Daniels at (417) 546-2376, or call (417) 546-7260.



**WITNESS PROTECTION ASSISTANCE IS
AVAILABLE THROUGH THE MOPS OFFICE.
FOR INFORMATION, YOU MAY CALL SHERI
AT (573) 522-1838.**



The MOPS office has started an index of opinion topics included in the monthly Caselaw Update, beginning with October 2004. If you would like a copy, please contact Sheri at the MOPS office.

MISSOURI SUPREME COURT

► *Death Penalty*

State v. Mark Anthony Gill, No. SC85955 (Mo. Banc July 12, 2005). The trial court did not err in submitting the verdict-directing instructions for first- and second-degree murder, based on accomplice liability in the disjunctive. Notes on Use 5(c) to MAI-CR3d 304.04 instructs the court to ascribe the conduct elements to the defendant or the other person where the evidence is not clear or conflicts as to whether the defendant or another person engaged in the conduct constituting the offense. Under the circumstances here, including defendant's several inconsistent statements and his statements that were inconsistent with the physical evidence, the evidence was not clear as to whether he or his accomplice was the actual shooter.

Gill's argument that the prosecutor's use of a hypothetical during jury selection misled and misinformed the jurors by greatly oversimplifying the law of accomplice liability has no merit. The prosecutor's hypothetical during jury selection conformed to the basic concept of accomplice liability. The prosecutor properly emphasized that the hypothetical was just an example and that the judge would give the jury the exact law as to the case in the instructions.

The trial court did not err in submitting the instruction regarding three statutory aggravating circumstances to the jury. Because at least one statutory aggravator was found, defendant was eligible for the death penalty. As to the challenged aggravator that the murder was committed for the purpose of receiving money, the Court consistently has held that it may apply to a murder committed during the course of a robbery. The trial court did not err in submitting instructions requiring the jury to balance mitigating and aggravating evidence. Although section 565.030.4, RSMo 200, requires the jury to determine beyond a reasonable doubt whether any statutory aggravators exist, the statute does not impose the same requirement on the determination of whether

mitigating evidence outweighs aggravating evidence.

The defendant was precluded from challenging the trial court's refusal to strike a prospective juror for cause because the prospective juror did not sit on the jury or participate in the verdict. The statute precluding such a challenge, section 494.480.4, RSMo 2000, is not unconstitutional. It does not deny access to Missouri courts because the right to a panel of qualified jurors from which to make peremptory challenges is statutory in nature, not constitutional. The only constitutional requirement is that the jury actually seated must be made up of qualified and impartial jurors. Further, the statute does not violate equal protection because its restriction on challenging a trial court's denial of strikes for cause applies to both civil and criminal litigants. It also has the rational purpose of avoiding unnecessary retrials in cases where the jury that decided the case met all constitutional requirements.

The trial court did not abuse its discretion in permitting victim impact testimony of Lape's sister and brother-in-law during the penalty phase. Defendant failed to show that the level of emotion displayed by the witnesses was so unduly prejudicial that it rendered the trial fundamentally unfair. Certain references by the witnesses were not improper, did not constitute an opinion or characterization of defendant or were brief and not unduly prejudicial.

MISSOURI EASTERN DISTRICT

► *Deliberation – Unborn Child*

Willis Bailey v. State, No. ED84855 (Mo. App. E.D. July 12, 2005). There was a factual basis to support defendant's guilty pleas to first-degree murder of a pregnant woman and first-degree murder of her unborn child. An unborn child is a person for purposes of first-degree murder, and defendant's deliberation on and intent to kill a woman he knew was pregnant necessarily included deliberation on and intent to kill the unborn child. Moreover, defendant could not establish prejudice resulting from his guilty pleas on the other counts since he was sentenced to life imprisonment without probation or parole on the count relating to the pregnant woman's murder, which he did not challenge.



MISSOURI EASTERN DISTRICT continued

► ***Uncharged Conduct – Complete Picture***
State v. George Estes, No. ED84950 (Mo. App. E.D. June 30, 2005). In this prosecution for possession of a controlled substance with the intent to sell, evidence of a controlled drug buy presented a complete picture of the events surrounding the search which led to the charged offense. There was no manifest from the admission of such uncharged evidence.

► ***Rape Shield – Prospective Application***
State v. Ronnie Reeder, No. ED84507 (Mo. App. E.D. June 28, 2005). In this prosecution for first-degree statutory rape and one count of attempted child molestation the court did not err in restricting defendant's use of the victims' prior false allegations. The new rule established in *State v. Long*, 140 S.W.3d 27 (Mo. banc 2004), decided while this case was pending on appeal governs the admissibility of evidence is procedural, and therefore applies prospectively only.

MISSOURI WESTERN DISTRICT

► ***Possession of Controlled Substances – Constructive Possession***
State v. Anthony D. Driskell, No. WD63742 (Mo. App. W.D. July 19, 2005). The Court reversed the defendant's conviction of possession of a controlled substance. The State failed to prove beyond a reasonable doubt that defendant had knowledgeable possession of the drugs found hidden in console of his car. Because a co-owner and passenger had joint access to the console, additional evidence was required to show that Driskell was aware of the existence of the drugs and thereby had constructive possession.

► ***Sentencing***
State v. William Weaver, No. WD63529 (Mo. App. W.D., July 12, 2005). The trial court erred in sentencing defendant despite the fact that he had not requested in writing, prior to voir dire, that the court assess punishment. Despite the error, no

manifest injustice occurred because defendant on multiple occasions, affirmatively expressed his desire to be sentenced by the court and did not object to the trial court assessing punishment.

► ***Business Records - Fingerprints***
State v. James Joe Carruth, No. WD64067 (Mo. App. W.D. July 5, 2005). The court did not err in relying on this evidence to determine defendant's status as a prior offender. The fingerprint evidence was properly admitted as a business record based on the testimony of a highway patrol laboratory technician regarding the manner in which the fingerprints were taken, processed, and maintained in the regular course of business.

► ***Accomplice Liability/Closing Arguments***
State v. Donald L. Biggs, Sr., No. WD63312 (Mo. App. W.D. June 21, 2005). Where the evidence presented showed that defendant associated himself with an armed robbery for which he was charged and participated in the crime by providing essential conduct for its successful completion, the trial court did not commit plain error in giving the verdict directing instruction, which contained the phrase "acted together with or aided."

The trial court did not commit plain error in failing to *sua sponte* declare a mistrial or instruct the jury to disregard the prosecutor's closing argument. The prosecutor's argument addressed a witness' credibility and his motive for testifying, highlighted the seriousness of the offense and defendant's disregard for the law, and were not reasonably interpreted as a comment critical of his exercise of his rights.

► ***Robbery in the Second Degree – Forcibly Steal***
State v. James E. Lybarger, No. WD62887 (Mo. App. W.D. June 14, 2005). There was sufficient evidence to support defendant's conviction for the second-degree robbery convictions. The evidence was sufficient to prove forcible stealing in that defendant kept his hand in his pocket during the robbery and caused the store clerk to believe he had a weapon.



MISSOURI SOUTHERN DISTRICT

► ***Tampering with a Witness***

State v. Jeremiah E. Pittman, No. 26203 (Mo. App. S.D. July 13, 2005). There was sufficient evidence to convict defendant of tampering with a witness. The State presented substantial evidence that defendant and an accomplice threatened a witness for the purpose of intimidating him and thereby dissuading him from testifying against defendant in his pending criminal trial or against the accomplice in any future criminal proceedings involving him. The jury could infer that they did so to induce Ringgold not to testify because: (1) they had both sold drugs to Ringgold; (2) they knew he could testify against each one of them; and (3) they knew charges against a drug suspect could be dismissed if an informant refused to cooperate with the prosecutor.

► ***Bail Bonds***

State v. Bobby Eugene Carroll, Defendant and A-Advanced Bail Bonds, Appellant. No. 26438 (Mo. App. S.D. July 6, 2005). The Court reversed the judgment of the trial court requiring the bond company to reimburse the State for expenses the State and Polk County, Missouri, incurred in returning Carroll to Missouri from a location in Georgia, where he had been incarcerated. The company argued the State did not accord it the "first opportunity," pursuant to section 374.770.2, to return Carroll to Missouri. The record revealed that appellant had previously informed the trial court that Carroll was incarcerated in the State of Georgia. While appellant knew that Carroll was in jail in Georgia, it had no knowledge as to whether Carroll was going to serve prison time, was going to be extradited, or even when he was going to be released. The trial court's finding that Appellant could have stationed its employee outside of the Valdosta County Jail in Georgia for some indeterminable period of time is unreasonable under the circumstances, because upon being informed by Georgia authorities of Carroll's impending release, a single phone call from the Sheriff could have alerted Appellant that Carroll was going to be released on a particular date. The Sheriff admitted that he did not make such an overture to Appellant.

► ***Child Abuse – Expert Testimony***

State v. Clayton D. Price, No. 26318 (Mo. App. S.D. June 29, 2005). In a prosecution for statutory sodomy in the first degree the court declined plain error review of a nurse's testimony regarding the victim's demeanor. Her "profound" impact testimony and her "personal reasons" statement are nothing more than isolated, ambiguous comments that were neither highlighted nor stressed by the State. Defendant failed to prove how these ambiguous remarks could be interpreted as vouching for victim's credibility.

► ***Armed Criminal Action – Mental State***

State v. Jibril Bin-Amir Walton, No. 26038 (Mo. App.S.D. June 23, 2005). The Court upheld defendant's conviction of involuntary manslaughter and armed criminal action based on that underlying felony. As held in *State v. Belton*, 153 S.W.3d 307, 310 (Mo. banc 2005): because section 571.015 specifically provides that it is applicable to "any felony" committed with a deadly weapon, the culpable mental state of the underlying felony is irrelevant. This conclusion is consistent with section 562.026(2), RSMo Supp. 1999, which provides that no culpable mental state is to be imputed to an offense if imputation is clearly inconsistent with the purpose of the statute defining the offense or may lead to an absurd or unjust result. The culpable mental state of purposely or knowingly as imputed to armed criminal action applies only to the use of the weapon and not to the underlying felony.



**PROSECUTING ATTORNEY & CIRCUIT ATTORNEY'S
RETIREMENT FUND**

Board Members:

John Richards, Lincoln County
Bob George, Lawrence County
Kevin Barbour, Butler County
Kevin Crane, Boone County
Doug Roberts, Livingston County

For questions regarding the retirement system please contact:

Katrina Farrow, Executive Secretary
PO Box 104896
Jefferson City, MO 65110
Phone: (573) 556-7985
Fax: (573) 556-7986



MONTY PLATZ

Monty Platz was born in Oregon, and raised in rural Adair County, MO. He received his B.A. in English from Truman State University and his J.D. from the University of Missouri-Columbia.

Platz chose the field of prosecution "simply to serve my community and give back. Several people have been inspirational in this decision – friends, family and co-workers – and I give special credit to retired Judge Jim Reinhard for encouraging my commitment to Monroe County."

Platz was serving as Assistant Prosecuting Attorney in Marion County when Monroe County announced that their prosecutor was stepping down and later accepting the appointment of Associate Judge. After encouragement from quite a few people and the support of folks from Monroe County putting in a good word in Jefferson City, he was appointed as Monroe County Prosecutor in October 2004.

His advice for new prosecutors? "I often try to listen to advice rather than dishing it out, but I offer the advice to stand on your convictions; at some point you will be at odds with those close to you – law enforcement, the court, voters, neighbors and even friends. The ability to do what is right, even if it is unpopular or you are being pressured to do otherwise, is what will define you as a prosecutor."

His proudest moment as a prosecutor? "Anytime I have a victim of a crime who gets to hear the defendant or the jury say 'guilty,' it is a proud moment, whether for petty theft or murder. As to one that stands out, I had a 12-year old victim of sexual molestation who was petrified with fear that she would have to return to the home of her mother and abusing stepfather. When she was told the defendant would be pleading guilty and she would not ever have to live in a household with him, the look of relief on her face reminded me of why I do the job I do."

"Not necessarily one moment but rather a running series of moments" amuse Platz. "As a young prosecutor, I occasionally receive comments regarding my age from defendants, attorneys, and others who have not met me. I have been mistaken for a college intern, had a visiting judge assume the public defender was the prosecutor as I looked too young, had folks come into my office with me sitting at the desk and ask if the prosecutor is in, and asked if I was job-shadowing (a high school program) by a family before court. I try to take it all in stride."

Platz is an advocate for victim services in smaller counties that may not have the resources of their larger neighbors. "Encourage education and support volunteer efforts to assist victims of abuse. Too many abusers live under the blanket of people's belief that if 'I don't see it happening, it's not happening.'"

Monty is engaged to be married in June 2006. In his free time he enjoys spelunking, jogging, movie nights, very amateur gardening, and visiting wineries around the state.

- ▶ **Last Great Book Read:** *Memoirs of a Geisha* by Arthur Golden
- ▶ **Favorite music:** 80's, U2, Coldplay
- ▶ **Favorite sports team:** Mizzou football



2005 TRAINING SCHEDULE

Page 7
Volume 12, Issue 7

MOPS TRAINING

AUGUST 2005		
August 8-11	TRIAL ADVOCACY SCHOOL	Jefferson City, MO
August 31-September 2	MOPS FALL STATEWIDE TRAINING	Osage Beach, MO



NATIONAL CLE TRAINING



August 2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 1-5	Equal Justice: Investigation & Prosecution of Child Abuse	APRI	Portland, OR
August 1-5	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
August 4-6	Jump Start	APRI	Annapolis, MD
August 7-9	2nd National Traffic Safety Resource Prosecutors Symposium	APRI	Boston, MA
August 8-12	Evidence Based Prosecution of Domestic Violence Cases	NDA	NAC, Columbia, SC ▼
August 8-12	Finding Words Kansas (Week #3)	APRI	Wichita, KS
August 15-18	Arson for Prosecutors Training Program (APTP)	APRI	Brunswick, GA
August 15-18	Crimes Against Children Conference	Dallas Children's Advocacy Center	Dallas, TX
August 15-19	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
August 22-26	ChildProtect: Trial Advocacy for Civil Child Protection Attorneys	APRI	Winona, MN
August 22-26	Trial Advocacy II—Practical Instruction for Experienced Trial Prosecutors	NDA	NAC, Columbia, SC ▼
Aug 29-Sept 1	Cross-Examination	NDA	NAC, Columbia, SC ▼

September 2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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11	12	13	14	15	16	17
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25	26	27	28	29	30	

Sept 8-10	Prosecutorial Leadership with Scarce Resources	APRI	Colorado Springs, CO
Sept 12-15	Beyond Finding Words: Emerging Issues in Forensic Interviewing	APRI	Gulfport, MS
Sept 13-16	National Institute on the Prosecution of Domestic Violence	APRI	Savannah, GA
Sept 18-22	Special Prosecutions Course	NCDA	Chicago, IL
Sept 19-22	Identity Theft	NDA	NAC, Columbia, SC ▼
Sept 19-23	NDA Fall Conference: Identity Crimes	NDA	Columbia, SC
Sept 20-22	Project Safe Neighborhoods Enforcement Training	APRI	Miami, FL
Sept 21-23	NAJIS 2005 Conference— "Bridging Justice Information Systems"	NAJIS	San Francisco, CA
Sept 21-23	The Missouri Bar / Missouri Judicial Conference Annual Meeting	MoBAR	Kansas City, MO
Sept 26-30	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Sept 30-Oct 4	The Executive Program	NCDA	Myrtle Beach, SC

2005 TRAINING SCHEDULE continued

Page 8
Volume 12, Issue 7

October 2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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30	31					

Oct 3-7	Bootcamp: An Introduction to Prosecution	NDA	NAC, Columbia, SC ▼
Oct 10-12	National Institute on Prosecution of Sexual Violence—Faculty Training	APRI	TBD
Oct 11-14	Jury Selection	NDA	NAC, Columbia, SC ▼
Oct 16-20	Meeting Challenges in Prosecution and Victim Advocacy	NCDA	San Francisco, CA
Oct 17-21	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Oct 23-27	15th Annual National Conference on Domestic Violence	NCDA	Reno, NV
Oct 24-28	Unsafe Havens II	NDA	NAC, Columbia, SC ▼
Oct 25-27	Illegal Drugs: New Problems/New Solutions for Prosecutors	APRI	TBD
Oct 30-Nov 3	Prosecuting Homicide Cases	NCDA	New Orleans, LA
Oct 31-Nov 4	Trial Advocacy I	NDA	NAC, Columbia, SC ▼

November 2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
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27	28	29	30			

Nov 6-10	Evidence for Prosecutors	NCDA	San Diego, CA
Nov 7-11	Prosecuting the Drugged Driver	NDA	NAC, Columbia, SC ▼
Nov 8-10	Advanced Community Prosecution Workshop	APRI	Austin, TX
Nov 13-17	Prosecuting Sexual Assaults and Related Violent Crimes	NCDA	San Francisco, CA
Nov 14-18	Finding Words: Interviewing Children and Preparing for Court	APRI	Winona, MN
Nov 14-18	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Nov 27-Dec 1	Prosecuting Drug Cases	NCDA	New Orleans, LA
Nov 29-Dec 2	Cross-Examination	NDA	NAC, Columbia, SC ▼
Nov 30-Dec 3	NAPC Winter Meeting	NAPC	San Diego, CA

December 2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
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25	26	27	28	29	30	31

Dec 4-8	Forensic Evidence	NCDA	San Antonio, TX
Dec 5-9	Adolescent Brain	NDA	NAC, Columbia, SC ▼
Dec 5-9	National Institute on Prosecution of Sexual Violence	APRI	Washington, DC (T)
Dec 11-15	Government Civil Practice	NCDA	San Diego, CA
Dec 12-16	Trial Advocacy I	NDA	NAC, Columbia, SC ▼

FOR INFORMATION ON NATIONAL COURSES: National District Attorneys Association (NDA) - (703) 549-9222 <http://www.ndaa.org/>

American Prosecutors Research Institute (APRI) - (703) 549-4253 <http://www.ndaa-apri.org> National College of District Attorneys (NCDA) - (803) 544-5096 <http://www.law.sc.edu/ncda/>

▼ All expenses including accommodations, transportation and meals are covered or reimbursed by the NAC, and no tuition is charged.
Please remember that all applications must be signed by the Elected Prosecutor.

MISSOURI OFFICE OF PROSECUTION SERVICES
TRIAL ADVOCACY SCHOOL
Capitol Plaza Hotel, Jefferson City, MO
August 8-11, 2005

AGENDA

Monday, August 8

11:00 a.m. - 12:00 noon
12:00 noon - 1:30 p.m.

1:30 p.m. - 2:30 p.m.
2:30 p.m. - 2:45 p.m.
2:45 p.m. - 3:45 p.m.
3:45 p.m. - 4:30 p.m.

Registration

Trial Techniques and Strategies—Tom Dittmeier, Assistant United States Attorney, Eastern District

Charging Decisions - Ed McSweeney, St. Louis County Assistant Prosecuting Attorney
Break

Voir Dire - Sean O'Hagan, Jefferson County Assistant Prosecuting Attorney

Opening Statement - Mike Ravetta, Jefferson County Assistant Prosecuting Attorney

Tuesday, August 9

9:00 a.m. - 10:00 a.m.
10:00 a.m. - 10:15 a.m.
10:15 a.m. - 11:15 a.m.
11:15 a.m. - 12:00 noon
12:00 noon - 1:00 p.m.
1:00 p.m. - 2:00 p.m.
2:00 p.m. - 3:00 p.m.
3:00 p.m. - 3:15 p.m.
3:15 p.m. - 4:45 p.m.

Opening Statement Lab

Break

Direct Examination - John DeVouton, St. Louis County Assistant Prosecuting Attorney

Prep time with direct witnesses

Lunch

Prep time for direct lab

Direct Lab

Break

Meaningful Objections: Meeting Defenses - Doug Sidel, St. Louis County Assistant Prosecuting Attorney

Wednesday, August 10

9:00 a.m. - 10:30 a.m.
10:30 a.m. - 10:45 a.m.
10:45 a.m. - 11:15 a.m.
11:15 a.m. - 2:00 p.m.
2:00 p.m. - 3:30 p.m.
3:30 p.m. - 3:45 p.m.
3:45 p.m. - 5:00 p.m.

Cross Examination - Steve Sokoloff, Dunklin County Prosecuting Attorney

Break

Defense Direct - Sean O'Hagan, Jefferson County Assistant Prosecuting Attorney

Lunch and prep time for cross lab

Cross Examination Lab

Break

Closing Argument - Tom Dittmeier, Assistant United States Attorney, Eastern District

Thursday, August 11

9:00 a.m. - 10:00 a.m.
10:00 a.m. - 10:30 a.m.
10:30 a.m. - 10:45 a.m.
10:45 a.m. - 11:45 a.m.
11:45 a.m.

Closing Lab

Defense Closing - Sean O'Hagan, Jefferson County Assistant Prosecuting Attorney

Break

Rebuttal Argument Lab

Closing Ceremony

If you have attended all sessions, you will have earned 23.4 CLE hours.

APPLICATION FORM
TRIAL ADVOCACY SCHOOL
August 8-11, 2005

Name of Applicant: _____

County/Office: _____

Address: _____

Telephone Number: _____

STATISTICS

Year admitted to the Bar: _____

Years in prosecution: _____

Number of felony jury trials: _____

Number of misdemeanor jury trials: _____

Number of non-jury trials (excluding traffic): _____

Return to: Missouri Office of Prosecution Services
Trial Advocacy School
P. O. Box 899
Jefferson City, MO 65102

PLEASE COPY AND DISTRIBUTE

MOPS STATEWIDE TRAINING AGENDA—FALL 2005

There will be a
Cookout Wednesday
evening from
6:00 pm—7:30 pm.

PRECONFERENCE—
WEDNESDAY

TIME	EVENT
9:00 am—5:00 pm	Registration
10:00 am—11:00 am	Elected Prosecutor Roundtable
10:00 am—12:00 pm	Prosecutor Dialog User Group Meeting
10:30 am—12:00 pm	Victim Advocates—Meet and Talk
11:00 am—1:00 pm	Legislative Roundtable

This conference
offers 15 hours
of CLE for
attorneys,
including 1.2
hours of ethics.

	TIME	TOPIC	SPEAKER	
WEDNESDAY— AUGUST 31, 2005	1:00 pm—2:00 pm	"Finding Words" and the Child Advocacy Center	Jay Wood, MO Network of Child Advocacy Centers, Eastern District; Jerri Sites, Children's Advocacy Center of East Central MO	GENERAL SESSION
	2:00 pm—3:00 pm	Update on the Sentencing Advisory Commission	Page Bellamy, Lafayette County Prosecutor; Kim Green, Director, Sentencing Advisory Commission	
	3:15 pm—4:15 pm	Caselaw Review	Shaun Mackelprang, Karen Kramer, Evan Buchheim, Assistant Attorneys General	
	4:15 pm—5:00 pm	Writing Findings of Fact and Conclusions of Law, Practical Elements on Motions to Suppress	Debbie Daniels, Kevin Zoellner, Assistant Attorneys General	
	1:00 pm—2:00 pm	Prior and Persistent Charging	Debbie Daniels, Assistant Attorney General	SUPPORT STAFF / VICTIM ADVOCATES
	1:00 pm—3:15 pm	Focusing on Objectives & Goals for your Victim	Mark Koch, Boone County Victim Advocate; Patti Peters, Butler County Victim Advocate	
	1:00 pm—5:00 pm	Child Support Enforcement Training	TBA	
	2:00 pm—3:00 pm	Check 21: Changes in the Check Law	Mike Huddelston, Assistant Prosecuting Attorney, Greene County	
	3:15 pm—5:15 pm	A Journey to Center: Turn Stress into High Performance	Donna Detz, Performance Plus Association, Jefferson City, MO	
	3:30 pm—4:30 pm	The Crime Victim Compensation Fund Program & How it Works	Susan Sudduth, Missouri Crime Victims Compensation Program Manager	
THURSDAY— SEPTEMBER 1, 2005	8:30 am—9:30 am	The Role of a Forensic Anthropologist in Forensic Investigations	Dr. Hugh Berryman, PhD, D-ABFA, Forensic Anthropologist, Lebanon, TN	GENERAL SESSION
	9:30 am—10:30 am	Interpretation of Bone Trauma in a Forensic Setting	Dr. Hugh Berryman	
	10:45 am—12:15 pm	Forensic Dentistry	Dr. James McGivney, DMD, St. Louis University Medical School	
	12:15 pm—1:15 pm	The Role of the Medicolegal Death Investigator	Mary Fran Ernst, Medicolegal Investigator for the St. Louis County Medical Examiners Office, Assistant Professor at the St. Louis University Medical School	
	8:30 am—10:30 am	Helping the Victim to Work with Probation & Parole prior to Sentencing; and...	Kim Williams, Probation & Parole Officer, Cape Girardeau Co Department of Probation & Parole	SUPPORT STAFF / VICTIM ADVOCATES
	10:45 am—12:45 pm	Self Defense	Officer Tom Venagoni, Maryland Heights Police Department	
	10:45 am—12:15 pm	Working with Domestic Assault Victims and Working with Sexual Assault Victims	Cheryl Robb-Welch, Operations Director, Missouri MCADV, Jefferson City	
FRIDAY— SEPTEMBER 2, 2005	8:30 am—9:30 am	ETHICS: Cross Examination of Expert Witnesses	Cliff Strider, Assistant District Attorney, 3rd Judicial, Ruston, LA	GENERAL SESSION
	9:30 am—10:30 am	The CSI Effect: Dealing with Television & Movie Created Expectations of Jurors	Cliff Strider	
	10:45 am—1:00 pm	Working Together with Victims of Crime	Tracy Gonzalez, Director, Child Protection Clinic, Clinical Assistant Professor of Law, University of Missouri	
	9:00 am—10:00 am	Special Needs of Working with Child Victims	Deborah Hohimer, LCSW, Therapist/Owner, Tender Hearts Child Therapy Center	VICTIM ADVOCATES
	10:30 am—11:30 am	Addressing Stress/Burnout for those in a Caring Profession	Deborah Hohimer	
	11:30 am—12:00 pm	Victim Advocate Roundtable Discussion; Program Assessment		

**MISSOURI OFFICE OF PROSECUTION SERVICES
FALL STATEWIDE TRAINING
TAN-TAR-A RESORT, OSAGE BEACH, MO
August 31-September 2, 2005**

NAME _____ **TITLE** _____

COUNTY _____ **TELEPHONE** _____

ADDRESS _____

CITY _____ **ZIP** _____

Room Accommodations

Rate: \$ 70.04 Single/Double/Triple/Quad (inclusive of tax)
\$123.60 1 Bedroom Suite
\$206.00 2 Bedroom Suite

TAN-TAR-A WILL RELEASE OUR BLOCK OF ROOMS AUGUST 1, 2005

Early registration and direct billing is encouraged

Hotel Reservation: Call Tan-Tar-A at 1-800-826-8272 to make reservations. The reservation must be accompanied with either a one-night deposit or credit card guarantee. Direct billing to individual offices must be requested in writing to the hotel in advance of the convention date. (Include office tax-exempt letter). Room cancellations must be received 72 hours prior to arrival date. Any rooms not canceled by you will be your responsibility.

MOPS Registration Fee: NOTE: There will be a non-refundable registration fee of \$80.00 per person. The registration fee includes all meal functions. Please make checks payable to "MOPS Revolving Fund" and mail them to "Missouri Office of Prosecution Services" along with this registration form.

Food Functions: Family members are welcome to attend food functions at \$10.00 for each function they wish to attend. Please indicate below the meals and the number attending. Please be accurate as we base our guarantee on your response. No refunds will be made. The following food functions are scheduled:

1)	Wednesday, Aug. 31	(#)	Cookout	6:00 - 7:30 p.m.
2)	Thursday, Sept. 1	(#)	Breakfast	7:00 - 8:15 a.m.
3)	Thursday, Sept. 1	(#)	Lunch	12:00 - 1:00 p.m.
4)	Friday, Sept. 2	(#)	Breakfast	7:00 - 8:15 a.m.

All other meals will be on your own

I will attend:

General Session, Wed., Thurs. & Fri.	_____
Support Staff Training, Wed. & Thurs.	_____
Child Support Enforcement Training, Wed.	_____
Victim Service Training, Wed. & Thurs	_____

Please return this form with your check for the registration fee and food functions for your family to:

Missouri Office of Prosecution Services
Fall Statewide Training
P. O. Box 899
Jefferson City, MO 65102

Please copy and distribute

**MISSOURI ASSOCIATION OF PROSECUTING ATTORNEYS
THIRTEENTH ANNUAL GOLF TOURNAMENT**

September 1, 2005



The Thirteenth Annual MAPA Golf Tournament is set for Thursday, September 1, 2005, at the Sycamore Creek Golf Club. Tee time will be at approximately 2:00 pm, and therefore you need to be at the golf course and ready to go at least 15 minutes ahead of time.

Again, this year's format is a four-person scramble, and you may request your team members (which I will honor), or if you do not have a full team, I will set up a team for you.

The price of this year's tournament will be \$45.00, which includes 18 holes of golf, cart and prizes. There will be no banquet, but the awards "ceremony" will be in the clubhouse bar (cash) following the tournament.

PLEASE NOTE — All golfers, regardless of ability level, are invited and encouraged to participate. Our objective is to have fun, meet people, and provide an opportunity for all parties to broaden their contacts across the state.

Send your registration form to the address below. If you have any questions, please feel free to contact me and plan to come and join us on the 1st.

GOLF REGISTRATION FORM

NAME _____ **COUNTY** _____

ADDRESS _____ **PHONE** _____

CITY/STATE/ZIP _____

TITLE OR POSITION _____

Please attach a check for the registration fee made out to "MAPA" and return this form to:

**Bart Spear
DeKalb County Prosecuting Attorney
P. O. Box 248
Maysville, MO 64469**



MISSOURI DEPARTMENT OF REVENUE

2005 LAW ENFORCEMENT SEMINARS



□□DON'T MISS OUR LAW ENFORCEMENT SEMINAR□□

**Seminars will give
4.2 hours Missouri Bar Credit
3 Legal and 1 Technical Post Credit is pending**

**Seminars will cover DWI & Case Law Updates
CDL Lawful Presence Update
Legislative Updates
and
MSHP Driving While Intoxicated Tracking System (DWITS)**

**For questions
Please call
General Counsel's Office
573-751-2580**

**PLEASE COMPLETE THE FRONT AND BACK OF THIS REGISTRATION FORM AND
RETURN TO:**

**DEPARTMENT OF REVENUE,
GENERAL COUNSEL'S OFFICE
PO BOX 475
JEFFERSON CITY, MO 65105**

**YOU MAY ALSO FAX YOUR RESPONSE TO:
(573) 751-8115**

***SPACE IS LIMITED. THEREFORE, IF YOU REGISTER AND FIND OUT AT A LATER DATE
THAT YOU WILL NOT BE ABLE TO MAKE THE SEMINAR, PLEASE LET US KNOW SO WE
MAY REGISTER SOMEONE IN YOUR PLACE.***



MISSOURI DEPARTMENT OF REVENUE

2005 LAW ENFORCEMENT SEMINARS



NAME _____

EMPLOYED BY:

- ☐ MSHP-TROOP: _____
- ☐ MUNICIPAL POLICE DEPT.: _____
- ☐ COUNTY SHERIFF'S DEPT.: _____
- ☐ OTHER (e.g. Court Clerk, State Prosecutor): _____

EMPLOYER'S ADDRESS _____

PHONE NUMBER _____

FAX NUMBER _____

Macon - Troop B
308 Pine Crest Drive
July 29, 2005
8:30 a.m. – 12:30 p.m.

Jefferson City - Gen. Hdqtrs.
1510 E. Elm
August 4, 2005
1:00 p.m. – 5:00 p.m.

St. Joseph – Troop H
3525 N. Belt Highway
September 8, 2005
8:30 a.m. – 12:30 p.m.

Lee's Summit- Troop A
504 E. Blue Pkwy.
September 9, 2005
8:30 a.m. – 12:30 p.m.

St. Louis – Troop C
599 S. Mason Rd.
September 14, 2005
1:00 p.m. – 5:00 p.m.

St. Louis – Troop C
599 S. Mason Rd.
September 15, 2005
8:30 a.m. – 12:30 p.m.

Poplar Bluff – Troop E
4947 Highway 67 North
September 16, 2005
8:30 a.m. – 12:30 p.m.

Rolla – Troop I
Nagogami Road West
September 28, 2005
8:30 a.m. – 12:30 p.m.

Willow Springs – Troop G
Hwy 60 / 63
September 29, 2005
8:30 a.m. – 12:30 p.m.

Springfield – Troop D
3131 E. Kearney
September 30, 2005
8:30 a.m. – 12:30 p.m.

CIRCLE THE ONE YOU WISH TO ATTEND

Please call 573-751-2580 if you have any questions.

"POSITIVE IDENTIFICATION"

Real Crimes Committed by Dumb Criminals

From CrazyCriminals.com

- ☺ **A man was arrested for stealing a car.** When he was taken to court for his arraignment the judge asked, how do you plead? Instead of saying guilty or not guilty the man said: "Before we go any further, judge, let me explain why I stole the car." The judge ruled in record time.



- ☺ **Indiana:** A man walked up to a cashier at a grocery store and demanded all the money in the register. When the cashier handed him the loot, he fled--leaving his wallet on the counter.

- ☺ **New York:** As a female shopper exited a convenience store, a man grabbed her purse and ran. The clerk called 911 immediately and the woman was able to give them a detailed description of the snatcher. Within minutes, the police had apprehended the snatcher. They put him in the cruiser and drove back to the store. The thief was then taken out of the car and told to stand there for a positive ID. To which he replied, "Yes Officer, that's her. That's the lady I stole the purse from."



- ☺ **Tennessee:** A man successfully broke into a bank after hours and stole the bank's video camera. While it was recording. Remotely. (That is, the videotape recorder was located elsewhere in the bank, so he didn't get the videotape of himself stealing the camera.)

- ☺ **The two suspects** had been apprehended and now sat in a courtroom at the defendant's table. A witness was on the stand being asked questions by the prosecutor. "And ma'am you say you were robbed of your purse on the street?" Yes sir, the witness answered. "And the two men who robbed you, are they here in the courtroom today?" Before the witness could answer both defendants raised their hands. The judge and jury laughed openly.



- ☺ **Illinois:** An Illinois man pretending to have a gun kidnapped a motorist and forced him to drive to two different automated teller machines. The kidnapper then proceeded to withdraw money from his own bank accounts.

- ☺ **Los Angeles, California:** Police in Los Angeles had good luck with a robbery suspect who just couldn't control himself during a lineup. When detectives asked each man in the lineup to repeat the words, "Give me all your money or I'll shoot," the man shouted, "That's not what I said!"

- ☺ **Toronto, Canada:** A gas station attendant had no trouble identifying a robber for police, even though the man had worn a pair of women's panties over his head as a disguise. The thief, who later admitted that his mind was clouded by intoxicants, had stuck his face through one of the leg-holes so he could see.



- ☺ **Washington D.C.:** A convict broke out of jail in Washington D.C., then a few days later accompanied his girlfriend to her trial for robbery. At lunch, he went out for a sandwich. She needed to see him, and thus had him paged. Police officers recognized his name and arrested him as he returned to the courthouse in a car he had stolen over the lunch hour.

Prosecutor Coordinators Training Council,

MAPA Officers:

President: Bob Wilkins, *Jefferson County Prosecutor*

Vice-President: John Kay, *Moniteau County Prosecutor*

Secretary: Kevin Crane, *Boone County Prosecutor*

Treasurer: Mike Hazel, *Pemiscot County Prosecutor*

Past President: Steve Sokoloff, *Dunklin County Prosecutor*

Missouri Attorney General: Jay Nixon

Missouri Office of Prosecution Services:

Director: Elizabeth L. Ziegler

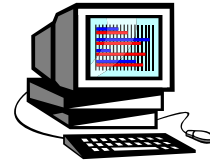
Traffic Safety Resource Attorney: Susan Glass

Administrative Assistant: Bev Case

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Computer Information Specialist: Jane Quick

Part-time Secretary: Judy Brooks



***The Missouri Prosecutor is
available by e-mail in PDF format.***

If you are interested in receiving the
newsletter by e-mail or
wish to submit an article,
please notify Sheri at the MOPS office.

E-mail: Sheri.Menteer@ago.mo.gov

MISSOURI PROSECUTOR

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Missouri Association of Prosecuting Attorneys,
PO Box 899, Jefferson City, MO 65102
Telephone (573) 751-0619
Fax (573) 751-1171
<http://www.mops.mo.gov>



**MISSOURI OFFICE OF PROSECUTION SERVICES
PO BOX 899
JEFFERSON CITY, MO 65101**

***Mission Statement: To improve Missouri's Criminal Justice System by promoting professional prosecution by enhancing
funding and training for prosecutors; by advancing the interests and the image of Missouri prosecutors and to
facilitate communication among and between prosecutors and the criminal justice community.***